

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-14-26
Baltimore, Maryland 21244-1850



Disabled & Elderly Health Programs Group

April 4, 2018

Mr. Dave Richard
Deputy Secretary for Medical Assistance
State of North Carolina, Department of Health and Human Services
1985 Umstead Drive, 2501 Mail Service Center
Raleigh, NC 27699-2501

Dear Mr. Richard:

In follow-up to the initial approval granted to North Carolina's Home & Community Based Services (HCBS) Statewide Transition Plan (STP) dated September 6, 2017, CMS provided detailed feedback to the state to assist with final approval and implementation of its STP. CMS acknowledges that since this technical assistance was provided work has continued within the state to bring settings in to compliance and further develop the STP; however, a summary of this feedback is attached for reference to assist in the state's efforts as it works towards final approval.

As a reminder, in order to receive final approval, all STPs should include:

- A comprehensive summary of completed site-specific assessments of all HCBS settings, validation of those assessment results, and inclusion of the aggregate outcomes of these activities;
- Draft remediation strategies and a corresponding timeline for resolving issues that the site-specific settings assessment process and subsequent validation strategies identified by the end of the HCBS settings transition period (March 17, 2022);
- A detailed plan for identifying settings presumed to have institutional characteristics, as well as the proposed process for evaluating these settings and preparing for submission to CMS for review under heightened scrutiny;
- A process for communicating with beneficiaries currently receiving services in settings that the state has determined cannot or will not come into compliance with the HCBS settings criteria by March 17, 2022; and
- A description of ongoing monitoring and quality assurance processes that will ensure all settings providing HCBS continue to remain fully compliant with the federal settings criteria in the future.

Prior to submitting the updated version of the STP for consideration of final approval, the state will need to issue the STP for a minimum 30-day public comment period. I want to personally thank the state for its efforts thus far on the HCBS STP, and looks forward to the next iteration of the STP that addresses the feedback in the attachment.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph F. Lollar", is written over a light blue circular stamp. The signature is fluid and cursive.

Ralph F. Lollar, Director
Division of Long Term Services and Supports

ATTACHMENT

Additional CMS feedback on areas where improvement is needed by the State of North Carolina in order to receive final approval of the HCBS Statewide Transition Plan

PLEASE NOTE: It is anticipated that the state will need to go out for public comment once these changes are made and prior to resubmitting to CMS for final approval. The state is requested to provide a timeline and anticipated date for resubmission for final approval as soon as possible.

Site-Specific Assessment and Validation Activities

CMS requests that the state provide the following information regarding the site-specific assessment process.

- ***Self-Assessment Review Guide:*** The state noted in the STP that the Self-Assessment Review Guide outlines the categories of “Full Integration, Emerging Integration and Insufficient Integration.” CMS asks the state to include within the STP the parameters for each of these categories and how the state will remediate issues identified. Please describe the evidence providers shared with the state to support their assertions.
- ***Final Reporting of Aggregate Settings Assessment & Validation Results:*** The state has provided preliminary results of the provider self-assessments in tables presented in the STP. Please confirm the percentage of providers that completed the assessment process. The STP should address how the state will assess providers that did not complete the provider self-assessment.
- ***Assuring Validation of All HCBS Settings:*** States may use a combination of various strategies to assure that each setting is properly validated (including but not limited to state onsite visits; data collection on beneficiary experiences and consumer feedback; leveraging of existing case management, licensing & certification, and quality management review processes; partnerships with other federally-funded state entities, including but not limited to Developmental Disability and aging networks; and state review of data from operational entities, such as managed care organizations (MCOs) or regional boards/entities, provider policies, consumer surveys, and feedback from external stakeholders), so long as compliance with each individual setting is validated by at least one methodology beyond the provider self-assessment.
- ***Group Settings:*** As a reminder, any setting in which individuals are clustered or grouped together for the purposes of receiving HCBS must be assessed and validated by the state for compliance with the rule. This includes all group residential and non-residential settings (including but not limited to prevocational services, group supported employment and group day habilitation activities). The state may presume that any settings where individualized services are being provided in typical community settings comport with the rule. Please confirm that the STP accurately includes all group residential and non-residential settings in its assessment and validation activities.
- ***Non-Disability Specific Settings:*** Please provide clarity on the manner in which the state will ensure that beneficiaries have non-disability specific settings among their service options for both residential and non-residential services. The STP should also indicate the steps the state is taking to build capacity among providers to increase access to non-disability specific setting options across home and community-based services.
- ***Individual, Private Homes:*** The state may make the presumption that privately-owned or rented homes and apartments of people living with family members, friends, or roommates meet the HCBS settings criteria if they are integrated in typical community neighborhoods where people who do not receive HCBS also reside. A state will generally not be required to verify this presumption. However, the state

must outline what it will do to monitor compliance of this category of settings with the settings criteria over time. Note, settings where the beneficiary lives in a private residence owned by an unrelated caregiver (who is paid for providing HCBS services to the individual) are considered provider-owned or controlled settings and should be evaluated as such.

Monitoring of Settings

CMS appreciates that the state has described a plan for ongoing monitoring of settings to ensure continued compliance with the settings criteria. CMS would like to provide specific feedback on elements of this compliance plan as noted below.

- In response to CMS' inquiry about how the state will monitor progress towards compliance during the 12 months in between yearly reviews, the state has indicated that the local management entities-managed care organizations' (LME-MCO) care coordinators have face-to-face contact with individuals receiving Residential Supports at least one time per month and quarterly face-to-face contact with individuals receiving Day Supports and Supported Employment (p. 32). CMS would like the state to clarify how monthly or quarterly contact with individuals receiving these supports will provide the state with information on how provider sites are progressing towards compliance given that individuals are unlikely to be aware of the specific remediation actions that sites are required to take.
- CMS suggests that the state stratify the sample of the "My Individual Experience Assessment" by service, setting, groups of settings, or setting type to ensure a representative random sample.

Heightened Scrutiny

As a reminder, the state must clearly lay out its process for identifying settings that are presumed to have the qualities of an institution. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information, the institutional presumption will stand and the state must describe the process for determining next steps for the individuals involved. Please only submit those settings under heightened scrutiny that the state believes will overcome any institutional characteristics and can comply with the federal settings criteria. Please include details about the criteria or deciding factors that will be used consistently across reviewers to make a final determination regarding whether or not to move a setting forward to CMS for heightened scrutiny review. There are state examples of heightened scrutiny processes available upon request, as well as several tools and sub-regulatory guidance on this topic available online at <http://www.medicaid.gov/HCBS>.